IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO.857 OF 2005

AND

NOTICE OF MOTION NO.894 OF 2005

IN

SUIT NO.857 OF 2005

...

Minoocher M. Deboo ...Plaintiff

v/s.

Rehmat ali Baig & Ors. ...Defendants

...

Mr.R.H. Mirza for the Plaintiff.

Mr.Shamim for the Defendant No.1.

...

**CORAM: D.K.DESHMUKH, J.**

**DATED:** 13TH OCTOBER,2006

**P.C.:**

The Plaintiff and the Defendants are co-owners of the property. The property is in possession of the Defendant No.1. Defendants Nos.2 to 5, though co-owners of the property are not appearing in the suit. Plaintiff and the Defendant No.1 are agreeable to have their disputes referred to arbitration. The substance of the dispute between the parties is as to how income from the property is to be apportioned amongst the co.owners of the property. There is definitely an element of settlement. In this view of the matter, therefore, in my opinion, this is an appropriate case where this court in exercise of power under Section 89 should refer the disputes between the parties in this suit to arbitration.

. By consent of the Plaintiff and the Defendant No.1, Hon'ble Smt. Justice K.K.Baam (Retd.) is appointed as arbitrator. The disputes between the parties in this suit are referred to Hon'ble Smt. Justice K.K.Baam (Retd.) for adjudication and decision in accordance with law. It is clarified

that the plaint in this suit shall be treated as statement of claim by the learned arbitrator. If the Defendants have any claims against the Plaintiff or in relation to any other property, the Defendants shall be entitled to file a counter-claim before the learned arbitrator, which the learned arbitrator shall decide in accordance with law.

It is clarified that the disputes between the Plaintiff and all the Defendants are referred to arbitrator. The costs of the arbitration shall be born at the first instance by the Plaintiff, subject to suitable orders that the arbitrator may make.

In view of the order passed in the suit, Notice of Motion does not survive for consideration. Hence, both suit and Notice of Motion are disposed of.

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